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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/657,477   | 09/08/2003  | Henry E. Juszkieicz  | N9350               | 2657             |
| 23456  | 7590        | 09/18/2006           | EXAMINER            |                  |
| WADDEY & PATTERSON, P.C.<br>1600 DIVISION STREET, SUITE 500<br>NASHVILLE, TN 37203 |             |                      | DONELS, JEFFREY     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2837                |                  |

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/657,477             | JUSZKIEWICZ ET AL.  |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Jeffrey Donels         | 2837                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,6-16,19,20,22 and 24-34 is/are rejected.
- 7) Claim(s) 3-5,17,18,21,23,35 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20060607.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2,6-16,19,20,22,24-34 are rejected under 35 U.S.C. 102(b) as being fully met by Elion (USP 5140890).

Elion discloses a guitar control system which comprises (See Fig. 1) an interface device input assembly 14 adapted to receive a predetermined number of digital string signals (e.g. HEPITCH) representative of string vibrations of guitar strings mounted on a guitar when the guitar strings are strummed; an interface device processing circuit 16,22,24 in communication with the interface device input assembly 14, the interface device processing circuit 16,22,24 adapted to generate a predetermined number of analog string signals based on the digital string signals; and an interface device output assembly 26 in communication with the interface device processing circuit and adapted to output the analog string signals generated by the interface device processing circuit.

Regarding Applicant's arguments, the claims do not require a digital guitar, and the signals are *external* in relation to the interface. The arguments have been

considered, but are not persuasive; the signals of Fig. 1 which are input to the microcontroller / interface 14 are all digital signals. According to the Abstract, MIDI data is input to the data buss.

Regarding Claims 6-16,19,20,22,24-34, Elion discloses that the guitar control system is adapted to receive and output various digital (e.g. HEPITCH-LEPITCH and MIDI) and analog 24 signals. See Fig. 1, Claim 1.

Claims 1,2 are rejected under 35 U.S.C. 102(e) as being fully met by Celi et al (USP 6787690).

Celi et al discloses a stringed instrument with embedded DSP modeling which comprises (Fig. 2) an interface device input assembly 120 adapted to receive a predetermined number of digital string signals 220 representative of string vibrations of guitar strings mounted on a guitar when the guitar strings are strummed; an interface device processing circuit 120 in communication with the interface device input assembly, the interface device processing circuit adapted to generate a predetermined number of analog string signals based on the digital string signals; and an interface device output assembly 215 in communication with the interface device processing circuit and adapted to output the analog string signals generated by the interface device processing circuit.

Applicant's arguments have been considered but are not deemed persuasive. The claims recite external digital string signals; however, the signals are *external* in

relation to the input assembly. With regard to Claim 2, the data signals formatted by Celi read on a communication protocol, which in this case is a protocol proprietary to Celi.

Claims 3-5,17,18,21,23,35,36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Donels whose telephone number is 571-272-2061. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey Donels  
Primary Examiner  
Art Unit 2837